

Notice of Allowability

Application No.

09/307,261

Examiner

Nicholas D. Rosen

Applicant(s)

HOOVER ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the IDS of 2/22/2005.
2. ☒ The allowed claim(s) is/are 1-24,36-50 and 84.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 5.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 1/3/05 and 2/22/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Claims 1-24, 36-50, and 84 have been examined.

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the application is now allowed, and the application was originally filed with informal drawings. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application.

Allowable Subject Matter

Claims 1-2 and 4-12 are allowed.

Claims 13-24 are allowed.

Claims 36-42 are allowed.

Claims 43-50 and 84 are allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Fay (U.S. Patent 5,983,201), discloses a method for previewing an accessory to be worn by a person, the method comprising: providing a first image to an input device at a first location, the first image including at least a portion of a person (Abstract); transmitting data of the first image to a server computer at a second location (Abstract); selecting a second image from an electronic database of images on or accessible to the computer at the second location, the second image comprising an

image of an accessory to be worn on the portion of the person in the first image (Abstract); generating data of a composite image from the data of the first image and data of the second image with computer at the second location, the composite image including the accessory worn on the portion of the person (Abstract); and displaying the composite image on an output device at the first location (Abstract; column 6, lines 4-33; the output device is inherent from what the customer is described as doing).

However, Fay does not disclose that the server computer is linked to different accessory-provider computer sites respectively having different accessories for viewing. Dias et al. (U.S. Patent 6,170,017) teach a server computer linked to different merchandise-provider computer sites respectively having different items of merchandise available for information and for purchase (column 1, line 56, through column 2, line 32). However, Dias (or other similar prior art regarding cybermalls, etc.) only suggests modifying Fay by placing Fay's remote electronic store in a virtual mall having other virtual stores, but does not adequately suggest linking the server computer to different accessory-provider computer sites.

(The foregoing was written with particular reference to claim 1, but claims 13, 36, and 43 contain parallel limitations, and are allowable parallel grounds. In particular, claim 13, as amended, recites a method for previewing an article, rather than an accessory. The article may not necessarily be an accessory, although it is "to be worn on the portion of the intended recipient in the first image," but in any case, neither Dias nor any other prior art of record adequately suggests linking the server computer to different article-provider computer sites.)

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claim 3 is allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Fay (U.S. Patent 5,983,201), discloses a method for previewing a pair of sunglasses or other accessory to be worn by a person, the method comprising: providing a first image to an input device at a first location, the first image including at least a portion of a person (Abstract); transmitting data of the first image to a computer at a second location (Abstract); selecting a second image from an electronic database of images on or accessible to the computer at the second location, the second image comprising an image of an accessory to be worn on the portion of the person in the first image (Abstract), where the accessory can be sunglasses (column 2, lines 50-60; column 8, lines 38-39); generating data of a composite image from the data of the first image and data of the second image with the computer at the second location, the composite image including the accessory worn on the portion of the person (Abstract); and displaying the composite image on an output device at the first location (Abstract; column 6, lines 4-33; the output device is inherent from what the customer is described as doing). Fay does not expressly disclose that the computer at the second location is a server computer, but it can be considered as such based on its described functions,

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and in any event, client-server architecture is well known. Fay does not disclose that the method further comprises displaying a shaded image, wherein a shade of the shaded image corresponds to a shade seen by a person wearing the pair of sunglasses. Various prior art exists regarding shaded images (for example, Deering et al., U.S. Patent 6,417,861, column 1, line 63, through column 2, line 9), but no prior art of record discloses, teaches, or reasonably suggests this limitation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Cited in Previous Action

From the electronic file wrapper, the 892 for the Office action mailed August 19, 2002, appears to have been lost. Therefore, to assure that all art considered pertinent is made of record, the art cited there is made of record in the present Office Action: Watts, Jr. et al. (U.S. Patent 3,590,434) disclose a package forming machine. Best et al. (U.S. Patent 4,839,743) disclose an interactive video and audio controller. Slilaty (U.S. Patent 5,163,007) discloses a system for measuring custom garments. Cline et al. (U.S. Patent 5,625,781) disclose an itinerary list for interfaces. Lau-Kee et al. (U.S. Patent 5,631,974) disclose image processing. Branson (U.S. Patent 5,740,801) discloses managing information in an endoscopy system. Levine et al. (U.S. Patent 5,745,681) disclose a stateless shopping cart for the Web. Montulli (U.S. Patent

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5,774,670) discloses a persistent client state in a hypertext transfer protocol based client-server system. Van Hoff (U.S. Patent 5,802,530) discloses a web document based graphical user interface. Schwob (U.S. Patent 5,881,234) discloses a method and system to provide Internet access to users via non-home service providers. Wong et al. (U.S. Patent 5,890,175) disclose dynamic generation and display of catalogs. Rose (U.S. Patent 5,930,769) discloses a system and method for fashion shopping. Ikeda et al. (U.S. Patent 5,937,391) disclose a point-service system in an online shopping mall. Pashley et al. (U.S. Patent 5,978,833) disclose a method and apparatus for accessing and downloading information from the Internet. Cupps et al. (U.S. Patent 5,991,739) disclose an Internet online order method and apparatus. Hillson et al. (U.S. Patent 6,094,644) disclose a method and apparatus for recording the actual time used by a service which makes requests for data. Franklin et al. (U.S. Patent 6,125,352) disclose a system and method for conducting commerce over a distributed network. Alexander et al. (U.S. Patent 6,134,593) disclose an automated method for electronic software distribution. Dias et al. (U.S. Patent 6,170,017) disclose Internet shopping malls (the Dias patent was used to make rejections in the Office Action mailed August 19, 2002). Kawabata (U.S. Patent 6,236,979) discloses a marketing system. Shkedy (U.S. Patent 6,260,024) discloses a method and apparatus for facilitating buyer-driven purchase orders on a commercial network system. Kmack et al. (U.S. Patent 6,304,851) disclose mobile data collection systems, methods, and computer program products. Deering et al. (U.S. Patent 6,417,861) disclose a graphics system with programmable sample positions.

Merriam-Webster's Collegiate Dictionary, tenth edition, discloses a definition of the term kiosk.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gao et al. (U.S. Patent 6,095,650) disclose an interactive eyewear selection system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas D. Rosen
NICHOLAS D. ROSEN
PRIMARY EXAMINER

July 21, 2005